Texas Hail Losses and Other Weather-Related Claims

Hail has become the “hot topic” in the Texas property insurance market. Every day, plaintiff firms are filing new lawsuits involving hail damage claims across the state. Zelle is consistently at the forefront in defending and addressing Texas hail disputes and other weather-related damage claims.

Through Zelle’s extensive experience in the commercial property insurance arena, our attorneys have recognized an emerging cottage industry comprised of public adjusters, roofing contractors, claims consultants, and others who make their living by actively participating in the submission of hail and other weather-related claims to the property insurance industry. Quite simply, insurance carriers are under attack by these individuals who typically have no relationship to the policy contract between insured and insurer but are nevertheless aggressively promoting, identifying and pursuing these claims, putting claims into appraisal, and filing lawsuits. The most common issues arising in these claims include:

1) what constitutes physical loss or damage to commercial roof products;

2) determining the date of loss / late notice;

3) obligation to pay general contractor overhead and profit;

4) the unauthorized practice of public adjusting by roofing contractors;

5) establishing the cost of repair; and

6) the scope of appraisal.

The Texas appraisal process is also in turmoil. Subsequent to the opinion by the Texas Supreme Court in State Farm v. Johnson, use of the appraisal process has exploded. The majority of disputed claims - even those involving disputes as to the existence of damage, scope of damage, or date of loss - are being placed into appraisal.
Zelle is working with its clients to help ensure that their appraisals are conducted equitably and that a fair result is achieved for all involved parties.

Zelle is also working with its insurance clients in three key areas related to hail losses and other weather-related claims. First, we are working with clients to review policy forms and address the common disputes so that the underlying issues giving rise to these claims can be quickly resolved with contract certainty. Second, we are assisting in the early stages of the adjustment process to help our clients avoid predictable disputes and obvious pitfalls (such as the “progressive claim syndrome” – a frequently-seen strategy of initially submitting a small claim and over time turning it into a much bigger claim). Third, we are appropriately and aggressively litigating claims that cannot be amicably resolved. We are also working with various Texas insurance trade groups and state legislators to educate them on some of the key problems facing the industry and working towards legislative change where appropriate.

Zelle attorneys have also been instrumental in identifying and preventing fraud, working with internal SIU units and state insurance department fraud units to expose such conduct. Moreover, Zelle attorneys are familiar with the individuals and entities that are most commonly involved with these claims. We know who they are and how they operate. And they know us.

Finally, our established relationships with all involved parties in the property insurance industry, on both sides of the claims process, help us resolve many claims early on and without the need for protracted and expensive litigation. However, when litigation is necessary, Zelle proactively and aggressively represents the interests of our clients in the courtroom.